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Attorneys for Plaintiff
SHELBY RAMSEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SHELBY RAMSEY, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

CARDTRONICS USA, INC.,
CARDTRONICS, INC., and DOES 1-10,
inclusive,

Defendants.

Civil Action No.: **'11CV1511 BEN MDD**

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff SHELBY RAMSEY, individually, and on behalf of all others similarly situated
 2 (“Plaintiff”), alleges upon knowledge with respect to herself and upon information and belief based,
 3 in part, on the investigation of counsel, as follows:

4 **I. PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action, individually and on behalf of all others similarly situated,
 6 against Defendants (as defined in ¶ 13, *infra*) alleging violations of 15 U.S.C. § 1693 *et seq.*,
 7 commonly known as the Electronic Fund Transfer Act (the “Act”), and 12 C.F.R. § 205 *et seq.*,
 8 commonly known as Regulation E (“Regulation E”), which contains regulations promulgated by the
 9 Board of Governors of the Federal Reserve System to implement the Act (the Act and Regulation E
 10 shall hereinafter be collectively referred to as the “EFTA”). Plaintiff also asserts claims against
 11 Defendants for violations of the California Unfair Business Practices Act, Business and Professions
 12 Code §§ 17200, *et seq.* (the “UCL”).

13 2. The EFTA establishes the basic rights, liabilities, and responsibilities of consumers
 14 who use electronic fund transfer services and of financial institutions that offer these services. The
 15 primary objective of the EFTA and Regulation E is the protection of consumers engaging in
 16 electronic fund transfers. 12 C.F.R. § 205.1(b). The EFTA requires specific disclosures be given by
 17 operators of any automated teller machine (“ATM”) to users of an ATM, prior to the imposition of a
 18 fee for using an ATM. 15 U.S.C. § 1693b.

19 3. The Congressional findings and declaration of purpose regarding the EFTA provides:

20 (a) Rights and liabilities undefined

21 The Congress finds that the use of electronic systems to transfer funds provides the
 22 potential for substantial benefits to consumers. However, due to unique
 23 characteristics of such systems, the application of existing consumer protection
 legislation is unclear, leaving the rights and liabilities of consumers, financial
 institutions and intermediaries in electronic fund transfers undefined.

24 (b) Purposes

25 It is the purpose of this subchapter to provide a basic framework establishing the
 26 rights, liabilities, and responsibilities of participants in electronic fund transfer
 27 systems. The primary objective of this subchapter, however, is the provision of
 28 individual consumer rights

5. This case is brought under the EFTA based upon the fact that Defendants have imposed ATM fees on Plaintiff and other consumers without providing any posted notice as required by the EFTA.

7 6. Plaintiff, on behalf of herself and all others similarly situated, brings this class action
8 against Defendants based on Defendants' violation of the EFTA. Plaintiff seeks, on behalf of herself
9 and the proposed class, statutory damages, costs and attorney's fees, all of which are expressly made
10 available by statute. 15 U.S.C. § 1693m. Plaintiff does not seek actual damages.

II. JURISDICTION

12 7. This Court has federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337
13 and 15 U.S.C. 1693m(g) because this action arises under the Electronic Fund Transfers Act, 15
14 U.S.C. § 1693 *et seq.*

15 8. Venue in this judicial district is proper under 28 U.S.C. § 1391 in that this is the
16 judicial district in which a substantial part of the events or omissions giving rise to the claims
17 occurred.

III. PARTIES

19 9. Plaintiff is a natural person who resides in San Diego County, California and used a
20 certain ATM owned and operated by Defendants (as defined in ¶ 13, *infra*), which ATM is located at
21 or about Gaslamp Pizza, 505 5th Avenue, San Diego, California 92101 (the “Gaslamp Pizza ATM”),
22 within one year of the filing of this Complaint, and was charged an ATM surcharge fee by
23 Defendants at the Gaslamp Pizza ATM described in this Complaint.

10. Defendant CARDTRONICS USA, INC. ("Cardtronics USA") is a Delaware corporation authorized and doing business in California, with its principal place of business located at 3250 Briarpark Drive, Suite 400, Houston, Texas 77042. Cardtronics USA is a subsidiary of defendant CARDTRONICS, INC. ("Cardtronics"). Cardtronics USA owns and/or operates the Gaslamp Pizza ATM.

11. Defendant Cardtronics is a Delaware corporation doing business in California, with its principal place of business located at 3250 Briarpark Drive, Suite 400, Houston, Texas 77042. Cardtronics owns and/or operates the Gaslamp Pizza ATM.

12. The true names and capacities of defendants sued herein as Does 1 through 10, inclusive, are presently not known to Plaintiff, who therefore sues these defendants by such fictitious names. Plaintiff will seek to amend this Complaint pursuant to Federal Rule of Civil Procedure 15 and include the Doe defendants' true names and capacities when they are ascertained. Each of the fictitiously named defendants is responsible in some manner for the conduct alleged herein and for the injuries suffered by Plaintiff and the proposed class as a result of defendants' wanton and illegal conduct.

13. Cardtronics USA, Cardtronics, and Does 1 through 10, inclusive, are collectively hereinafter referred to as "Defendants."

IV. BACKGROUND

A. Electronic Funds Transfer Act

14. "Electronic funds transfer" is defined as "any transfer of funds . . . which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes . . . automated teller machine transactions . . ." 15 U.S.C. § 1693a(6); *see also* 12 C.F.R. § 205.3(b).

15. Defendants are an "automated teller machine operator" as that term is defined by 12 C.F.R. § 205.16(a), which states: "Automated teller machine operator means any person that operates an automated teller machine at which a consumer initiates an electronic fund transfer or a balance inquiry and that does not hold the account to or from which the transfer is made, or about which an inquiry is made."

16. 15 U.S.C. § 1693b(d)(3)(A) and (B), and the implementing regulation, 12 C.F.R. § 205.16(b) and (c), require an ATM operator who imposes a fee on a consumer for "host transfer services" (an electronic fund transfer or a balance inquiry) to provide notice to the consumer of the fee before the consumer is committed to the transaction. Specifically, 12 C.F.R. § 205.16(b) states:

1 *General.* An automated teller machine operator that imposes a fee on
2 a consumer for initiating an electronic fund transfer or a balance
inquiry shall:

- 3 (1) Provide notice that a fee will be imposed for providing
4 electronic fund transfer services or a balance inquiry; and
5 (2) Disclose the amount of the fee.

6 17. 15 U.S.C. § 1693b(d)(3)(B), and its implementing regulation, 12 C.F.R. § 205.16(c),
7 specifies the notice to be provided to consumers. 12 C.F.R. § 205.16(c) states:

8 (c) *Notice requirement.* To meet the requirements of paragraph (b) of
this section, an automated teller machine operator must comply with the
9 following:

10 (1) *On the machine.* Post in a prominent and conspicuous
location on or at the automated teller machine a notice that:

11 (i) A fee will be imposed for providing electronic fund
12 transfer services or for a balance inquiry; or

13 (ii) A fee may be imposed for providing electronic fund
14 transfer services or for a balance inquiry, but the notice in this
paragraph (c)(1)(ii) may be substituted for the notice in
15 paragraph (c)(1)(i) only if there are circumstances under
which a fee will not be imposed for such services; and

16 (2) *Screen or paper notice.* Provide the notice required by
17 paragraphs (b)(1) and (b)(2) of this section either by showing it on the
screen of the automated teller machine or by providing it on paper,
18 before the consumer is committed to paying a fee.

19 18. Pursuant to this regulation, the notice physically attached to the ATM must comply
20 with 12 C.F.R. § 205.16(c), either by stating that a fee will be imposed, or if there are circumstances
21 in which a fee will not be imposed, that a fee may be imposed.

22 19. 15 U.S.C. § 1693b(d)(3)(C), and its implementing regulation, 12 C.F.R. § 205.16(e),
23 provide that no fee may be imposed by an ATM operating in connection with any electronic fund
24 transfer initiated by a consumer for which a notice is required unless the consumer is provided the
25 notices required pursuant to 12 C.F.R. § 205.16(c). Specifically, 15 U.S.C. § 1693b(d)(3)(C) states
26 in relevant part:

27 (C) **Prohibition on fees not properly disclosed and explicitly**
28 **assumed by consumer.** No fee may be imposed by any automated
teller machine operator in connection with any electronic fund
transfer initiated by a consumer for which a notice is required under

subparagraph (A), unless – (i) the consumer receives such notice in accordance with subparagraph (B); and (ii) the consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

Similarly, 12 C.F.R. § 205.16(e) provides that:

(e) *Imposition of fee.* An automated teller machine operator may impose a fee on a consumer for initiating an electronic fund transfer or a balance inquiry only if

(1) The consumer is provided the notices required under paragraph (c) of this section, and

(2) The consumer elects to continue the transaction or inquiry after receiving such notices.

20. In connection with 2006 amendments to the EFTA, the Board of Governors of the Federal Reserve published its Final Rule and official staff interpretation which, *inter alia*, explained the EFTA's disclosure requirements as follows:

The final rule clarifies the *two-part disclosure scheme established in Section 904(d)(3)(B) of the EFTA. The first disclosure, on ATM signage posted on or at the ATM, allows consumers to identify quickly ATMs that generally charge a fee for use. This disclosure is not intended to provide a complete disclosure of the fees associated with the particular type of transaction the consumer seeks to conduct.* Until a consumer uses his or her card at an ATM, the ATM operator does not know whether a surcharge will be imposed for that particular consumer. Rather, it is the second, more specific disclosure, made either on the ATM screen or an ATM receipt, that informs the customer before he or she is committed to the transactions whether, in fact, a fee will be imposed for the transaction and the amount of the fee....

71 F.R. 1638, 1656 (emphasis added).

21. Thus, the statute and regulation require that a physical notice must be displayed informing consumers that the ATM imposes a surcharge, and that the ATM screen must definitively state that a fee will be imposed, before that fee is imposed.

22. The EFTA imposes strict liability upon ATM operators that fail to comply with its disclosure requirements. *See Burns v. First American Bank*, 2006 WL 3754820, *6 (N.D. Ill. Dec. 19, 2006). A plaintiff seeking statutory damages under the EFTA need not prove that he or she sustained any actual financial loss, or that he or she relied upon the lack of mandatory disclosure as an inducement to enter into a transaction. *Burns*, 2006 WL 3754820, *6 (“Section 1693b(d)(3)

1 prohibits an ATM operator from charging a fee unless it provides notice of its fee on the machine
2 and on the screen, period, no mention of a necessary scienter.”)

3 23. The notice referenced in 15 U.S.C. § 1693f has no arguable applicability to Plaintiff’s
4 claims because, among other things, Plaintiff is not an account holder of Defendants.

5 **B. Defendants' Conduct**

6 24. Defendants are ATM operators regulated under the EFTA, 15 U.S.C. § 1693 *et seq.*
7 and 12 C.F.R. Part 205 (Regulation E), as that term is defined in 12 C.F.R. § 205.16(a).

8 25. Defendants are operators of the Gaslamp Pizza ATM located at or about 505 5th
9 Avenue, San Diego, California 92101.

10 26. Defendants are owners of the Gaslamp Pizza ATM located at or about 505 5th
11 Avenue, San Diego, California 92101.

12 27. The Gaslamp Pizza ATM permits consumers to perform electronic fund transfers, as
13 defined in 12 C.F.R. § 205.3.

14 28. The Gaslamp Pizza ATM imposes a fee on consumers who withdraw cash from the
15 Gaslamp Pizza ATM.

16 29. Defendants failed to post on or at the Gaslamp Pizza ATM a notice that a fee will be
17 imposed for withdrawing cash or for a balance inquiry, resulting in Defendants’ improper imposition
18 of a fee to Plaintiff and other users of the Gaslamp Pizza ATM.

19 30. Defendants’ failure to post the required notice on or at the Gaslamp Pizza ATM has
20 resulted in frequent and persistent non-compliance with the EFTA. Said violations of the EFTA
21 have adversely affected hundreds or thousands of consumers.

22 31. Despite knowing of the ATM fee notice provisions of the EFTA, Defendants have
23 violated the EFTA by failing to post the required ATM fee notice at the Gaslamp Pizza ATM and
24 improperly imposing ATM fees.

25 32. Defendants’ non-compliance with the ATM fee notice requirements of the EFTA, and
26 subsequent imposition of a fee on Plaintiff and the members of the proposed class, did not result
27 from a bona fide error.

28

C. Plaintiff's Electronic Funds Transfers With Defendants

33. Plaintiff is a consumer as defined in 12 C.F.R. § 205.2(e).

34. Within one year of the filing of this Complaint, Plaintiff used the Gaslamp Pizza ATM described in this Complaint in order to conduct an electronic funds transfer involving the withdrawal of cash.

35. The Gaslamp Pizza ATM did not have the fee notice required by 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16, as it did not have any sign affixed to it or in close proximity to it informing consumers that use of the Gaslamp Pizza ATM will or may result in an ATM surcharge.

36. Plaintiff was in fact assessed a \$2.95 ATM surcharge fee for withdrawing cash from the Gaslamp Pizza ATM described in this Complaint.

V. CLASS ALLEGATIONS

37. Plaintiff brings this class action on behalf of herself and all other similarly situated persons pursuant to Rule 23(a), (b)(1), (b)(3) of the Federal Rules of Civil Procedure. Plaintiff hereinafter sets forth facts and allegations more specifically in support of his class action allegations.

38. With regard to the EFTA claim, Plaintiff seeks to represent a class of similarly situated persons, consisting of (a) all consumers (b) who initiated an electronic funds transfer at the Gaslamp Pizza ATM described in ¶ 9, *supra*, and (c) were assessed a fee for withdrawing cash from the Gaslamp Pizza ATM described in ¶ 9, *supra*, (d) on or after the date one year prior to the filing of this action and continuing through the trial of this cause or until Defendants are compliant with the EFTA by posting the appropriate notice (the "EFTA Class").

39. With regard to the UCL claim, Plaintiff seeks to represent a class of similarly situated persons, consisting of (a) all consumers (b) who initiated an electronic funds transfer at the Gaslamp Pizza ATM described in ¶ 9, *supra*, and (c) were assessed a fee for withdrawing cash from the Gaslamp Pizza ATM described in ¶ 9, *supra*, (d) on or after the date four years prior to the filing of this action and continuing through the trial of this cause or until Defendants are compliant with the EFTA by posting the appropriate notice (the "UCL Class") (both the EFTA Class and the UCL Class are collectively referred to as the "Class").

1 40. Congress expressly intended that the EFTA would be enforced, in part, through
2 private class actions. 15 U.S.C. § 1693m(a).

3 41. Plaintiff is informed and believes, and thereon alleges, that there are at minimum,
4 hundreds of members of the Class.

5 42. The exact size of the Class and the identities of the individual members thereof are
6 ascertainable through Defendants' records. Defendants have exclusive control of this information.

7 43. Members of the Class may be notified of the pendency of this action by techniques
8 and forms commonly used in class actions, such as by published notice, e-mail notice, website
9 notices, first class mail, or combinations thereof, or by other methods suitable to this Class and
10 deemed necessary and/or appropriate by this Court.

11 44. Defendants can generate data for its Gaslamp Pizza ATM identifying each transaction
12 in which a fee was charged. The data will include the date of the transaction, the amount of the fee
13 and the personal account number ("PAN") for the consumer. The PAN includes a bank
14 identification number ("BIN"). This information can be used to identify members of the Class.

15 45. The Class is sufficiently numerous to make bringing all parties before the Court
16 impractical pursuant to Rule 23(a)(1) of the Federal Rules of Civil Procedure.

17 46. Plaintiff's claims are typical of the claims of the members of the Class. The claims of
18 the Plaintiff and members of the Class are based on the same legal theories and arise from the same
19 unlawful conduct. Plaintiff and Class members seek recovery of statutory, not actual, damages.

20 47. Plaintiff and members of the EFTA Class were each users of the Gaslamp Pizza ATM
21 since the date one year prior to the filing of this action.

22 48. Plaintiff and members of the UCL Class were each users of the Gaslamp Pizza ATM
23 since the date four years prior to the filing of this action.

24 49. Plaintiff and each member of the Class were illegally charged an ATM fee as a result
25 of Defendants' failure to comply with the ATM fee notice requirements of the EFTA, thereby
26 resulting in common questions of law and fact pursuant to Rule 23(a)(2) of the Federal Rules of
27 Civil Procedure.

28

1 50. Plaintiff and each member of the Class received an inadequate notice regarding the
2 imposition of an ATM fee by the Gaslamp Pizza ATM.

3 51. The questions of law and fact common to the Class predominate over questions which
4 may affect individual members, including:

5 (a) Whether Defendants were at all relevant times during the class period automated
6 teller machine operators which imposed a fee on consumers for providing host transfer services to
7 those consumers;

8 (b) Whether Defendants are the operators of the Gaslamp Pizza ATM;

9 (c) Whether Defendants complied, at all times during the class period, with the notice
10 requirements of 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16; and

11 (d) Whether Plaintiff and members of the Class are entitled to statutory damages, costs
12 and attorney's fees for Defendants' acts and conduct.

13 52. Plaintiff can and will adequately and vigorously represent and protect the interests of
14 the members of the Class. Plaintiff has no interests antagonistic to the members of the Class.
15 Plaintiff has retained counsel able, competent and qualified to prosecute this class action litigation as
16 set forth in Rule 23(a)(4) of the Federal Rules of Civil Procedure.

17 53. Plaintiff and Plaintiff's counsel will fairly and adequately protect the interests of the
18 Class.

19 54. In support of Plaintiff's allegations pursuant to Rule 23(b)(3) of the Federal Rules of
20 Civil Procedure, the Plaintiff avers that a class action is superior to other available means for the fair
21 and efficient adjudication of the claims of the Class. While the aggregate damages that may be
22 awarded to the members of the Class are likely to be substantial, the damages suffered by the
23 individual members of the Class are relatively small. As a result, the expense and burden of
24 individual litigation makes it economically infeasible and procedurally impracticable for each
25 member of the Class to individually seek redress for the wrongs done to them. Plaintiff does not
26 know of any other litigation concerning this controversy already commenced by or against any
27 member of the Class. The likelihood of the individual members of the Class prosecuting separate
28 claims is remote. Pursuant to Rule 23(b)(1)(A) of the Federal Rules of Civil Procedure

1 individualized litigation would also present the potential for varying, inconsistent, or contradictory
 2 judgments, and would increase the delay and expense to all parties and the court system resulting
 3 from multiple trials of the same factual issues. In contrast, the conduct of this matter as a class
 4 action presents fewer management difficulties, conserves the resources of the parties and the court
 5 system, and would protect the rights of each member of the Class. Plaintiff knows of no difficulty to
 6 be encountered in the management of this action that would preclude its maintenance as a class
 7 action.

8 **VI. CLAIMS**

9 **FIRST CLAIM FOR RELIEF**

Against All Defendants for

Violation of 15 U.S.C. § 1693 *et seq.* and 12 C.F.R. 205 *et seq.*

11 55. Plaintiff incorporates by reference and realleges each and every allegation contained
 12 above, as though fully set forth herein.

13 56. Plaintiff asserts this claim on behalf of herself and the Class against Defendants.

14 57. Defendants failed to provide notices to the Plaintiff and the Class as required by 15
 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16(c), and imposed a fee in violation of 15 U.S.C. §
 16 1693b(d)(3)(C) and 12 C.F.R. §§ 205.16(b) and (e).

17 58. 15 U.S.C. § 1693b(d)(3)(C), and its implementing regulation, 12 C.F.R. § 205.16(e),
 18 prohibit the imposition and receipt of a fee for conducting an electronic fund transfer unless a notice
 19 of the fee is posted in a prominent and conspicuous location on or at the ATM.

20 59. Defendants imposed and received a fee in violation of 15 U.S.C. § 1693b(d)(3)(C),
 21 and its implementing regulation, 12 C.F.R. § 205.16(e).

22 60. As a result of Defendants' violations of the EFTA, Defendants are liable to Plaintiff
 23 and the Class for statutory damages pursuant to 15 U.S.C. § 1693m.

24 61. As a result of Defendants' violations of the EFTA, Plaintiff and the members of the
 25 Class are entitled to recover costs of suit and their reasonable attorney's fees.

26 ///

27 ///

28 ///

SECOND CLAIM FOR RELIEF
Against All Defendants for
Violation of California Bus. & Prof. Code § 17200

62. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

63. The California Unfair Business Practices Act defines unfair competition to include any “unfair,” “unlawful,” or “fraudulent” business act or practice. Cal. Bus. & Prof. Code § 17200. The UCL provides that a Court may order injunctive relief and restitution to affected members of the general public for violations. *Id.* § 17203.

64. Plaintiff has suffered injury in fact and has lost money as a result of Defendants’ unlawful, unfair, and/or fraudulent business acts and practices. If Defendants had complied with EFTA, Plaintiff would not have suffered injury in fact and would not have lost money.

65. This cause of action is brought on behalf of Plaintiff, members of the Class, and members of the general public pursuant to California Business & Professions Code §§ 17200, *et seq.* Under Business & Professions Code §§ 17200, *et seq.* Plaintiff is entitled to enjoin Defendants’ wrongful practices and to obtain restitution for the monies paid to Defendants by reason of Defendants’ unlawful, unfair, and/or deceptive acts and practices.

66. Defendants’ actions were knowingly committed and performed with such frequency as to constitute a general business practice.

67. As a direct and proximate result of Defendants’ wrongful acts and practices alleged above, members of the Class and the general public have been wrongfully charged by Defendants. This Court is empowered to, and should, order restitution to all persons from whom Defendants unfairly and/or unlawfully took money.

68. Defendants’ unlawful, unfair, and/or fraudulent business acts and practices, as described above, present a continuing threat to members of the Class and of the general public, in that Defendants are continuing, and will continue, unless enjoined, to commit violations of California Business & Professions Code § 17200. This Court is empowered to, and should, grant preliminary and permanent injunctive relief against such acts and practices.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and the members of the Class, prays for:

- A. An order certifying the Class and appointing Plaintiff as the representative of the Class, and appointing undersigned counsel as Class Counsel;
- B. An award to Plaintiff and the members of the Class of statutory damages pursuant to 15 U.S.C. § 1693m;
- C. A declaration that Defendants' conduct constitutes a violation of California's Business & Professions Code § 17200;
- D. An injunction enjoining, preliminarily and permanently, Defendants from continuing the wrongful conduct alleged herein;
- E. Payment of costs of suit herein incurred pursuant to 15 U.S.C. § 1693m(a)(3);
- F. Payment of reasonable attorney's fees pursuant to 15 U.S.C. § 1693m(a)(3); and
- G. For other and further relief as the Court may deem proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

DATED: July 7, 2011

/s/ Mark A. Golovach

MARK A. GOLOVACH

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SHELBY RAMSEY

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Shelby Ramsey, Individually and on Behalf of All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff San Diego County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Pacific Coast Law Group, Mark A. Golovach, 501 W. Broadway,
Ste. 800, San Diego, CA 92101 (619) 400-4895

DEFENDANTS

Cardtronics USA, Inc., Cardtronics, Inc., and Does 1-10,
inclusive

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

'11CV1511 BEN MDD

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

- (Place an "X" in One Box Only)
- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (1 15 U.S.C. section 1693, et seq.; 12 C.R.F. section 205, et seq.)

Brief description of cause: Defendants' violation of the Electronic Fund Transfer Act and Regulation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$
 CHECK YES only if demanded in complaint.
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

7/7/11

SIGNATURE OF ATTORNEY OF RECORD

Mark A. Golovach

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE